

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Civil No. 07-CV-15120

Honorable Denise Page Hood
Magistrate Donald A. Scheer

vs.

SEVEN THOUSAND THREE HUNDRED
TEN DOLLARS IN UNITED STATES
CURRENCY (\$7,310.00),

Defendant.

STIPULATION FOR ENTRY OF CONSENT
JUDGMENT AND FINAL ORDER OF FORFEITURE

NOW COMES the Plaintiff, the UNITED STATES OF AMERICA (hereinafter the “United States” or the “government”), by and through its counsel, STEPHEN J. MURPHY, United States Attorney, and LINDA AOuate, Assistant United States Attorney, and Claimant, KENNIE SMITH, individually, and by and through his attorney, CHARLES H. MARR, who enter in to this Stipulation for entry of a Consent Judgment and Final Order of Forfeiture as evidenced by their signatures below, under the terms and conditions hereinafter set forth:

WHEREAS, on or about March 16, 2007, \$7,310.00 (the “Defendant Currency”) in U.S. Currency was seized by agents of the Drug Enforcement Administration (“DEA”), as well as other participating law enforcement officers, at the Detroit Metropolitan Airport in Romulus, Wayne County, Michigan;

WHEREAS, an administrative claim contesting the forfeiture was filed by KENNIE SMITH with the DEA, and thereafter, the matter was referred by the DEA to the United States Attorney's Office for judicial forfeiture;

WHEREAS, a Complaint for Forfeiture in this matter was filed on or about December 3, 2007, by the United States alleging that the Defendant Currency was subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6);

WHEREAS, notice by publication has been completed in this case;

WHEREAS, claimant KENNIE SMITH filed a Claim to Contest Forfeiture on or about March 6, 2008, in connection with the Defendant Currency, and filed an Answer to the Complaint on or about February 22, 2008;

WHEREAS, no other verified claims of interest have been filed by any party with the United States District Court under the Supplemental Rule for Certain Admiralty and Maritime Claims and the time for filing such pleadings has expired;

WHEREAS, the parties have reached a settlement which is embodied in this Stipulation for Entry of Consent Judgment and Final Order of Forfeiture, and which is intended to resolve all claims and issues between the parties and conclude this litigation; and

NOW, THEREFORE, the parties hereby stipulate and agree as follows:

1. This is an in rem civil forfeiture action brought pursuant to 21 U.S.C. § 881(a)(6).
2. The Court has jurisdiction and venue over this matter pursuant to 28 U.S.C. §§ 1345, 1355, 1391 and 1395.

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3. The allegations of the Complaint for Forfeiture are well taken, the United States and its agents had reasonable cause for the seizure of the Defendant Currency as provided in 28 U.S.C. § 2465, the position of the United States and its agents and employees in this action is and has been substantially justified as set forth in 28 U.S.C. § 2412, and KENNIE SMITH shall not claim or seek attorney fees from the UNITED STATES under the Civil Asset Forfeiture Reform Act, the Equal Access to Justice Act, or any other act, statute or regulation.

4. Claimant KENNIE SMITH hereby withdraws his claim to the Defendant Currency.

5. Claimant KENNIE SMITH agrees that \$5,000.00 of the Defendant Currency plus any interest accrued on the Defendant Currency since the date of seizure shall be **FORFEITED** to the United States of America pursuant to 21 U.S. C. § 881(a)(6). Further, any right, title or interest of KENNIE SMITH, his respective successors and assigns, and any right, title and ownership interest of all other persons in \$5,000.00 of the Defendant Currency plus any interest accrued on the Defendant Currency since the date of seizure is hereby and forever, **EXTINGUISHED** and that clear title to \$5,000.00 of the Defendant Currency plus any interest accrued on the Defendant Currency since the date of seizure thereon shall hereby be **VESTED** in the United States, and the United States Marshal, or his delegatee, is **AUTHORIZED** to dispose of \$5,000.00 of the Defendant Currency, plus any interest accrued on the Defendant Currency since the date of seizure, according to law.

6. Claimant KENNIE SMITH agrees that upon entry of the judgment and order, or as soon thereafter as practicable, the remaining \$2,310.00 of the Defendant Currency shall be

returned to claimant KENNIE SMITH, through his attorney CHARLES H. MARR. Said check shall be made payable JOINTLY to KENNIE SMITH and CHARLES H. MARR and mailed to the Law Office of Charles H. Marr, P.L.L.C., 302 West Main Street, Northville, MI 48167.

7. Upon signing below, claimant KENNIE SMITH releases, remises and forever discharges the plaintiff, United States, and its agents, officers, employees, past and present, and all other persons, including but not limited to the DEA, any individual local law enforcement officers or departments or agencies, and any other persons who participated in or assisted in any aspect of this forfeiture action and underlying investigation, from any and all claims or causes of action which claimant, and his agents, officers, employees, past and present, and which claimant and his assigns, agents, officers employees and successors in interest hereafter can, shall or may have for, or on account of the incidents or circumstances giving rise to the above-captioned action.

8. KENNIE SMITH has discussed this settlement with his counsel and is aware of his rights in this matter, and fully understands its terms and conditions and the consequences of entering into it. The parties agree that each party shall bear its own costs and attorneys fees in this matter.

9. Upon entry of the accompanying Consent Judgment and Final Order of Forfeiture below, and payment of the sums specified herein, this case shall be **DISMISSED WITH PREJUDICE** and closed.

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WHEREFORE, the parties stipulate to entry of this Stipulation for Entry of Consent Judgment and Final Order of Forfeiture.

s/ Linda Aouate
LINDA AOUATE (P70693)
Assistant U.S. Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9587

Dated: May 30, 2008

s/ with consent of Charles H. Marr
CHARLES H. MARR (P36289)
Attorney for Claimant
302 West Main Street
Northville, MI 48167
(248) 596-1599

Dated: May 30, 2008

s/ with consent of Kennie Smith
KENNIE SMITH
Claimant

Dated: May 30, 2008

CONSENT JUDGMENT AND FINAL ORDER OF FORFEITURE

IT IS SO ORDERED.

Dated: June 6, 2008

s/ DENISE PAGE HOOD
HONORABLE DENISE PAGE HOOD
United States District Court Judge